

IN THE HIGH COURT OF KARNATAKA : AT BANGALORE

DATED : 28TH DAY OF MAY 1998

BEFORE

THE HON'BLE MR.JUSTICE K.H.N.KURANGA

C.R.P. NO.135 OF 1998

Between:

1. D.Syed Ismail,
S/o Syed Dastagir Saheb
Major, Chikkabaliapur
Kolar District.

2. D.Syed Akbar
S/o Syed Dastagir Saheb
25, A.M.Road,
Bangalore-560 001.

3. Fatima Bi
W/o Syed Dastagir Saheb,
Major, No.25,
A.M.Road,
Bangalore-560 002.

Petitioners

(By Sri Y.S.Ramakrishna,
Advocate for petitioners)
Petitioner No.3 is deleted)

And:

1. Syed Shahabuddin
S/o Syed Dastagir Saheb
Major, No.25, A.M.Road,
Bangalore.560 001.

2. Syed Sajjad Pasha,
S/o Haji Syed Ahmed
Major, No.8 & 9
Old Police Lane,
'C' Street, Mackan Road,
Cross, Bangalore.

3. Mallika Taj
W/o Syed Sajjad Pasha,
Major, No.8 & 9,
Old Police Lane,
'C' Street, Mackan Road,
Cross, Bangalore.

.. Respondents

This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure against the order dated 18-12-1997 passed in O.S.No.3816 of 1993 on the file of the X Additional City Civil Judge, Mayo Hall, Bangalore rejecting I.A.No.6 filed under Order 6 Rule 17 of the Code of Civil Procedure for amendment of the written statement.

This petition is coming on for admission, this day, the Court made the following:-

ORDER

Heard the learned counsel for the petitioners.

2. Counsel for the petitioners submitted that he may be permitted to delete petitioner No.3 Fatima Bi who is defendant No.3 in the suit. Permission is granted and he has deleted petitioner No.3.
3. The petitioners have, in this petition, challenged the order dated 18-12-1997 passed by the X Additional City Civil Judge, C.C.C.20 Bangalore in O.S.No.3816 of 1993 on I.A.No.6 rejecting the same.
4. The petitioners filed I.A.No.6 under Order 6 Rule 17 C.P.C. for amending the written statement by deleting the second and third sentence in para 4 and 1 sentence in para 8 of the written statement.

5. The defendants 5 and 6 filed their written statement contending that they had already obtained the sale deed by paying full sale consideration to defendants 1 and 2. The contents of the sale deed indicates the delivery of possession of the same to defendants 5 and 6. The defendants 1 and 2, the petitioners herein, filed written statement on 13-10-1993 and thereafter, after defendants 5 and 6 filed the written statement, the petitioners filed an application I.A.No.6 for amendment of the written statement on 9-8-1997. The only reason offered by the petitioners for amending the written statement filed by them is their Advocate who drafted the written statement did not explain to them the contents and out of inadvertence they signed the written statement. They have not explained as to how they came to know that there was a mistake in the written statement filed by them. When the case was set down for evidence, they have filed the said application for amendment that too after the defendants 5 and 6 filed their written statement.

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6. In the circumstances, the Court below has rejected the application for amendment of the written statement filed by the petitioners. The order passed, in the circumstances of the case, in my opinion, is just and proper and does not call for interference by this Court and the petition filed by the petitioners is liable to be dismissed and accordingly, it is dismissed.

Sd/-
JUDGE

KBN/-